HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9156 OF 2003.

Hanumant Nathuram Shinde. ..Petitioner.

Versus.

Manager, Satara District Co-operative
Agricultural Rural Multipurpose
Development Bank Ltd, Satara & Ors...Respondents.

Shri. H. D. Gole for the Petitioner.

CORAM: S.B.MHASE, J.

DATE : MARCH 13, 2006.

P.C.

1. Heard Shri. H. D. Gole learned counsel appearing on behalf of the petitioner. Perused order dated 21.2.2003.

2. The petitioner is from the backward community and also a handicapped person inasmuch as his left hand is short by 4 inches than the right hand. He has passed S.S.C. examination when he was employed with the respondent as a peon. As a peon he was in Cadre-11, according to the recruitment rules of the bank. It appears that thereafter some posts in cadre-9, ie., the posts of clerks were to be filled. Therefore, the petitioner was considered for promotion. He was promoted from the cadre 11 to 9, i.e., from the post of

peon to the post of clerk. However, as a clerk it was required that he should have typing speed of 30 words per minute in Marathi and 40 words per minute in English. It appears that due to his physical incapacity to do typing, as one hand of the petitioner is short than other hand, he made a request to the respondent to relax the said condition. In Board meeting of the respondent held on 14.2.2003 the said condition was relaxed and it was directed that from the date of resolution, i.e, with effect from 14.2.2003 the pay and salary of the petitioner including the increments be fixed. However, since the sympathy was shown, the Board resolved that any wages prior to 14.2.2003 should not be claimed. Being aggrieved by that last part, this petition has been preferred.

3. This Court also has every sympathy for the petitioner being a displaced person. The respondent has given preference to the disabled person and has shown sympathy of waiving condition in respect of the employment. We called upon the petitioner to point out his right for which a mandamus can be issued by this Court under Article 227 read with Article 226 of the Constitution of India, to the respondent Bank to pay backwages as of right. Learned counsel appearing on behalf of the petitioner was unable to satisfy this Court on this count.

4. This Court finds that the respondents have sympathetically considered the case of the petitioner and has accordingly fixed the pay and salary of the petitioner and has relaxed the conditions which the petitioner was not in a position to satisfy. It was possible for the respondent to observe that the petitioner is not suitable for the post of the clerk in cadre 9, since he is unable to carry on the typing work either in Marathi or in English, which is the essential qualification for the post of clerk. In that eventuality the petitioner would have been required to work on suitable post for the disabled persons where he can discharge his duties and that post would be a post of peon. Therefore, no interference under these circumstances is called for. Petition is hereby rejected.

(S.B.MHASE, J.)